IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 8974 of 2005

Between:

K.Srinivas, s/o Sri Satyanarayana,
r/o Teki, Kapileswarapuram Mandal, E.G.District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, rep., by its Secretary, Panchayat Raj and Rural development Department, Secretariat, Hyderabad.
2 The District Collector (Panchayat Wing), East Godavari at Kakinada-533 001.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 1st respondent in not passing orders in the revision petition filed by the petitioner herein aggrieved by the proceedings of the 2nd respondent issued in R.C.No.5019/2004/A11, dated 26-03-2005 as illegal, arbitrary and unjust and consequently direct the respondents to drop all further proceedings against the petitioner in this regard and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR. N.SIVA REDDY

Counsel for the Respondents : GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.8974 OF 2005

ORDER :

The petitioner was elected as Sarpanch of Teki Gram Panchayat, Kapileswarapuram Mandal, East Godavari District in the year 2001.

This writ petition is filed questioning the order dated 26-03-2005 passed by the 2nd respondent – The District Collector (Panchayat Wing), East Godavari at Kakinada under Section 249(6) of The A.P. Panchayat Raj Act, 1994 (for short, 'the Act') suspending the petitioner for a period of three months with immediate effect. Though the learned Counsel for the petitioner raised various grounds assailing the said order, I am not inclined to express any opinion on merits since against the impugned order an alternative remedy is available by way of Revision under Section 264 of the Act. Without exhausting the alternative remedy, this writ petition cannot be maintained.

As can be seen from the affidavit filed in support of the writ petition, the petitioner has already preferred such Revision on 15-04-2005. However, the petitioner pleads that the Revisional Authority failed to consider the same and no orders have been passed so far even on the application for stay and therefore he is constrained to file this writ petition.

Having regard to the facts and circumstances of the case and particularly keeping in view that the petitioner has already availed the statutory remedy and the same is pending before the Revisional Authority, without expressing any opinion on merits, I deem it appropriate to dispose of the writ petition with a direction that the Revision Petition filed by the petitioner against the impugned order dated 26-03-2005 shall be disposed of as expeditiously as possible preferably within a period of four weeks from the date of receipt of this order.

However, keeping in view the nature of the impugned order, I am of the opinion that unless the same is suspended till the disposal of the Revision Petition, the impugned order would work itself out and therefore the balance of convenience is in favour of the petitioner and it is necessary in the interest of justice to suspend the impugned order during the pendency of the Revision Petition.

Accordingly, the writ petition is disposed of with a direction to the first respondent – Government of A.P. to dispose of the Revision Petition filed by the petitioner against the order dated 26-3-2005 passed by the second respondent as expeditiously as possible preferably within a period of four weeks from the date of receipt of this order. Till such time, the order of the second respondent dated 26-3-2005 shall not be given effect to.

The Writ Petition is accordingly disposed of. No costs.

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21st April, 2005.

gbs

To

1 The Secretary, Government of Andhra Pradesh, Panchayat Raj and Rural Development Department, Secretariat, Hyderabad.
2 The District Collector (Panchayat Wing), East Godavari at Kakinada-533 001.

3. Two CCs to G.P. for Panchayat Raj & Rural Development, High Court of AP Bldgs, Hyderabad (OUT).

4. Two CD copies.